

conditions imposed upon approvals issued under this subpart or 49 CFR part 40.

§ 219.703 Drug testing procedures.

(a) Urine samples shall be collected and handled as required in 49 CFR part 40 and this section.

(b) The collection site person (collector) shall meet the requirements of 49 CFR part 40.

(c) A person with management or supervisory responsibility over the employee to be tested, or a co-worker of the employee to be tested, may not serve as a collector. For purposes of this paragraph, *co-worker* means a person with whom the person to be tested is assigned or could be assigned in a crew or other working unit to perform normal transportation duties on the railroad.

[54 FR 53259, Dec. 27, 1989, as amended at 59 FR 7464, Feb. 15, 1994; 62 FR 63467, Dec. 1, 1997]

§ 219.705 Drugs tested.

(a) Urine samples shall be analyzed for the presence of controlled substances designated in paragraph (b) of this section and may be analyzed by procedures reasonably incident to analysis of the specimen for controlled substances (e.g., determination of pH or tests for specific gravity, creatinine concentration, or presence of adulterants).

(b) Each sample submitted shall be analyzed for marijuana, cocaine, phencyclidine (PCP), opiates (morphine and codeine), and amphetamines (amphetamine and methamphetamine).

(c) As part of the reasonable cause testing program established by subpart D of this part, a railroad may test for additional controlled substances in addition to those specified in this section only with approval granted by FRA and for substances for which the Department of Health and Human Services has established an approved testing protocol and positive threshold.

§ 219.707 Review by MRO of urine drug testing results.

(a) Urine drug test results reported positive by the laboratory as provided in part 40 of this title shall not be deemed positive or disseminated to any

person (other than to the employee tested in a medical interview, if conducted) until they are reviewed by a Medical Review Officer (MRO) of the railroad as required by part 40 of this title and this section. For purposes of this part, medical use of controlled substances by a covered employee is a legitimate medical explanation for presence of a controlled substance (i.e., a basis for declaring the result "negative") only to the extent such use was consistent with § 219.103 of this part.

(b) The MRO shall complete review of test results within not more than 10 regular working days of receipt of the laboratory report or they shall be declared negative, unless any portion of the delay shall result from the unwillingness or inability of the employee to appear for an interview or provide documentation of prescription or other authorized use of medications. If the employee is responsible for such delay, the 10-day period may be extended by a period equal to the period attributed to the employee's delay. This paragraph shall not be read to bar reporting of a positive result if the employee, without a reasonable basis, fails to respond to an opportunity to provide supplementary information.

(c) After the MRO has reviewed the pertinent information and the laboratory assessment is verified as indicating presence of controlled substances without medical authorization consistent with § 219.103 of this part (and the review required by paragraph (b) of this section is completed), the MRO shall report the results to a designated railroad officer for action in keeping with the requirements of this part (or take appropriate action under the railroad's medical standards). The employee shall be provided a copy of the approved test results, or such results shall be dispatched by U.S. mail or other suitable means providing prompt delivery, not later than 24 hours following any adverse action.

(d) Test results reported as negative by the laboratory shall also be communicated through the MRO. The MRO shall promptly transmit the negative finding to the employee. If the MRO provides the railroad with negative